

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION

UNITED STATES OF AMERICA,)
)
Plaintiff,)
)
v.) No. 4:08CR189 RWS
)
ANDREW J. WARREN,)
)
Defendant.)

ORDER

This matter is before me on Defendant's Objection to the Order and
Recommendation of the United States Magistrate Judge.

Defendant Warren filed his motion to suppress evidence and statements.
The pre-trial motions were assigned to United States Magistrate Judge David D.
Noce pursuant to 28 U.S.C. § 636(b).

In his Report and Recommendation Judge Noce recommended that the
motion to suppress evidence and statements be denied.

I have conducted a de novo review of the evidentiary hearing, the briefs
filed by the parties and the relevant case law.

I adopt the thorough reasoning and conclusions of Judge Noce.

Search Warrant

Judge Noce correctly found that a further Franks hearing is not necessary.

Judge Noce reached his decision based on his analysis that even if the challenged portions of the application for a search warrant were deleted, the remaining allegations joined a sufficient bases for the state judge to find probable cause to issue the search warrant. United States v. Luleff 15 F.3d 765, 768 (8th Cir. 1994). A further hearing under Franks v. Deleware 438 U.S. 154 (1978) is not necessary and the motion to suppress evidence will be denied.

Statements

Defendant Warren also challenges the voluntariness of statements made after his arrest without a lawyer present.

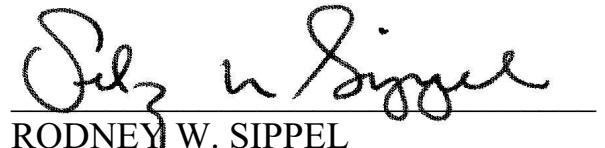
Warren argues that he was questioned despite his request for an attorney. The transcript of the interrogation establishes that Warren did not at any time, unambiguously and unequivocally ask for an attorney. As a result, his statements may be used against him.

Accordingly, based on my de novo review,

IT IS HEREBY ORDERED defendant Andrew J. Warren's motions to suppress physical evidence and his statements [#11, 20, 21] are denied.

IT IS FURTHER ORDERED that the Report and Recommendation of the

United States Magistrate Judge [#34] is **SUSTAINED, ADOPTED, and INCORPORATED** herein.



RODNEY W. SIPPEL
UNITED STATES DISTRICT JUDGE

Dated this 30th day of September, 2008.